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(2) Recipients who retain responsibility for the payment of their own heating bills should be made aware of and encouraged to use budget billing programs offered by their heating vendors.

(3) When the heating and/or domestic energy bill of a public assistance recipient/grantee has been placed on vendor payment as a result of a mismanagement determination, voluntary request, or administrative ease provision, the district must determine if there has been an under/overpayment. This reconciliation must be conducted at least annually, at case closing, and upon termination of the vendor payment arrangement. Identified under/overpayments are to be reconciled in accordance with section 352.31(d), (e), and/or (f) of this Part.

(h) The social services official must designate a staff member to function as a liaison to energy vendors, other agencies, and to individuals seeking energy-related information and/or assistance.

(i) The social services official must ensure that 24 hour/seven day a week referral capability exists for receipt of referrals from energy vendors, outside agencies, and individuals with energy related emergencies. The official may either designate social services district staff to be available on a 24 hour, seven days a week basis or may choose to designate an agency/organization in the community which agrees to accept calls after normal business hours and on weekends and to assist a referred household in the temporary alleviation of a life threatening energy emergency until the household can make application for financial assistance on the next normal business day.

352.6 Miscellaneous shelter allowances and grants.

(a) (1) A social services official must provide funds for household moving expenses utilizing the least costly practical method of transportation, a rent security deposit, and/or a brokers' or finders' fee only when, in his judgment, one of the following conditions exists:

(i) the move is to a less expensive rental property and the amount paid for a security deposit and moving expenses is less than the amount of a two-year difference in rentals; or

(ii) the move is necessitated by one of the following criteria:

(a) the need to move results from a disaster/catastrophe and/or a vacate order placed against the premises by a health agency or code enforcement agency;

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- (b) the move is necessitated by a serious medical or physical handicap condition. Such need must be verified by specific medical diagnosis;
 - (c) the individual or family is rendered homeless as a result of having been put out by another occupant with whom they were sharing accommodations;
 - (d) the move is from temporary to permanent housing;
 - (e) the move is from permanent housing to temporary housing whenever necessary due to the unavailability of permanent housing;
 - (f) the move is from one temporary accommodation to another temporary accommodation whenever necessary due to the unavailability of permanent housing;
 - (g) the move is from an approved relocation site or to an approved cooperative apartment; or
 - (h) there is a living situation which adversely affects the mental or physical health of the individual or family, and the need for alternate housing is urgent, and not issuing a security deposit, moving expenses and/or brokers' or finders' fees would prove detrimental to the health, safety and well-being of the individual or family.
- (2) A security deposit and/or brokers' or finders' fees must be provided only when an applicant or recipient is unable to obtain a suitable vacancy without payment of such allowances.
- (3) Documentation of the need for a security deposit, moving expenses and/or brokers' or finders' fees must be fully recorded in the case record.
- (b) Avoidance of abuses in connection with rent security deposits.
- (1) Whenever a landlord requires that he be secured against nonpayment of rent or for damages as a condition to renting a housing accommodation to a recipient of public assistance, a local social services official may secure the landlord by either of the following means:
- (i) by means of an appropriate agreement between the landlord and the social services official; or

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(ii) by depositing money in an escrow account, not under the control of the landlord or landlord's agent, subject to the terms and conditions of an agreement between the landlord and the social services official in such form as the department may require or approve; provided, however, that the provisions of this subparagraph do not apply where a public assistance recipient resides in public housing.

(2) A social services official may not pay money to a landlord to be held as a security deposit against the payment of rent or for damages by a public assistance recipient, or issue a grant to a recipient of public assistance therefor, except as provided in paragraph (3) of this subdivision.

(3) When, in the judgment of a social services official, housing accommodations available in a particular area are insufficient to accommodate properly recipients of public assistance in need of housing, and in order to secure such housing, it is essential that the official pay money to landlords to be held as security deposits against the non-payment of rent or for damages by public assistance recipients or to issue grants to recipients of public assistance therefor, such social services official may pay or furnish funds for such security deposits until sufficient housing accommodations are available in the particular area to accommodate properly recipients of public assistance in need of housing. Social services officials must not pay or furnish such funds where recipients of public assistance reside in public housing. In no case will temporary residence in a shelter, including those defined in Parts 900 or 1000 of this Title, a hotel/motel or any other such emergency or transitional residential facility be considered sufficient housing accommodations for purposes of this paragraph. Landlords receiving such security deposits must comply with the provisions of article seven of the General Obligations Law. The recipient is required to assign to the social services official any right the recipient may have to the return of the security deposit and interest accrued thereon. Any social services official paying or furnishing funds for a security deposit in accordance with this paragraph must make diligent efforts to recover such payments or funds from the landlord as allowed by law. Such efforts must not delay recoupment or recovery from a recipient if recoupment or recovery from the recipient is required by this section.

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(c) Recovery of rent security payments.

(1) If as a result of non-payment of the shelter allowance, the security deposit or security agreement for non-payment of rent is required to be paid to the landlord, such payment must be considered to be an overpayment made to the recipient and as such, must be recovered according to the provisions of section 352.31(d) of this Part. If rent has not been paid due to a legitimate landlord/tenant dispute, a rent strike or as a result of the application of Section 143-b of the Social Services Law, such payment is not an overpayment and cannot be recouped or recovered.

(2) When a security deposit or monies under a security agreement are paid to a landlord for damages caused by a recipient, such payment must be considered an overpayment and must be recovered from a recipient pursuant to the provisions of section 352.31(d) of this Part provided that a social services official has conducted (or arranged for) a pre-tenancy and post-tenancy inspection or survey of the premises, or verified by some other means that the damages were caused by the recipient. The condition of the premises when the recipient moves and when the recipient moves out must be documented and agreed to by signature of the landlord and the recipient. If the verification does not confirm that there are damages caused by the recipient, then cash must not be issued under a security agreement or, if a cash security deposit had been issued and the landlord retains it for alleged damages, the social services official must attempt to recover the deposit from the landlord. When the verification confirms that the recipient caused the damages, the district must recover the deposit amount from the recipient.

(d) When non-payment of the shelter allowance or client-caused damages, as confirmed by a pre-tenancy inspection and post-tenancy inspection or survey conducted by the social services district or by some other means of verifying that the damages were caused by the recipient pursuant to paragraph (2) of subdivision (c) of this section necessitates the authorization of finders' or brokers' fees, or household moving expenses, such payments must be considered to be overpayments made to the recipient and as such, must be recovered according to the provisions of section 352.31(d) of this Part. If rent has not been paid due to a legitimate landlord/tenant dispute, a rent strike or as a result of the application of Section 143-b of the Social Services Law, such payments are not overpayments and cannot be recouped or recovered.

(e) Unless prohibited by State or federal law or regulation, an allowance for expenses, not otherwise authorized under this title, for the repair, maintenance or retention of housing occupied by, but not owned by, a recipient of public assistance must be paid when necessary for the health and safety of the recipient and his or her family, when other appropriate housing is not available and when the payment is necessary to permit the recipient and his or her family to remain in the housing. An allowance for expenses for

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repair and maintenance must be paid only when the owner of the housing is not obligated to provide the repair or maintenance. An allowance under this subdivision does not include payments for utility deposits for gas and electricity, payments covered under subdivision (b) of this section, payments for rent, property taxes or mortgage arrears and payments for litigation costs of any kind, including attorney's fees.

(f) An allowance for storage of furniture and personal belongings must be made when it is essential, for circumstances such as relocation, eviction or temporary shelter, so long as eligibility for public assistance continues and so long as the circumstances necessitating the storage continue to exist.

352.7 Allowances and grants for other items of need.

(a) Furnishings.

(1) If provision therefor cannot otherwise be made, each social services district must provide for the purchase of necessary and essential furniture, furnishings, equipment and supplies required for the establishment of a home for persons in need of public assistance. For purposes of this subdivision, such an allowance must be provided only when, in the judgment of the social services official, one of the following conditions exists:

(i) An individual or family temporarily housed in a hotel, motel, homeless shelter, residential program for victims of domestic violence or other temporary accommodation to which the individual or family has been referred by the social services district is being permanently rehoused in unfurnished housing accommodations, and suitable furnished accommodations are not available.

(ii) An unattached individual, whose needs cannot otherwise be met under Part 397 of this Title, is discharged from an institution, is determined to be capable of maintaining an apartment in the community, and suitable furnished accommodations are not available.

(iii) An adult, whose needs cannot otherwise be met under Part 397 of this Title, is discharged from an institution and wishes to rejoin his family, which is in need of additional furniture to provide adequate shelter for him.

(iv) A child is returned to his parents, who are in need of additional furniture to provide adequate shelter for him.

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(v) An individual's or family's living situation adversely affects the physical and mental health of that individual or family, and it is essential that the individual or family be rehoused in unfurnished housing accommodations in order to safeguard his or their health, safety and well-being.

(2) An allowance provided under paragraph (1) of this subdivision may not exceed the amounts authorized for the appropriate rooms and items in the following schedule:

SCHEDULE SA-4a
INITIAL OR REPLACEMENT COST OF ESSENTIAL
HOUSEHOLD FURNITURE, FURNISHINGS, EQUIPMENT AND SUPPLIES

Living room	\$182
Bedroom	
with a single bed	\$145
with two single beds	\$205
with double bed	\$184
Kitchen	
(excluding appliances)	\$142 (plus \$12 for each additional person)
Range	\$182
Refrigerator	\$182 (or \$258 for four or more persons)
Bathroom	\$ 6 (plus \$4 for each additional person)
equipment	Other
Cabinet for linens	\$ 22
Stove for heating	\$ 72 (or \$82 for five or more persons)

(3) Documentation of the need for such furniture must be fully recorded in each case record.

(b) Equipment repairs. Each social services district must provide for the essential repair of heating equipment, cooking stoves and refrigerators used by persons in need of public assistance in their homes, provided provision therefor cannot otherwise be made except that replacement may be authorized when less expensive than repair. Such allowances for cooking stoves and refrigerators cannot exceed the amounts authorized under schedule SA-4a.

(c) Additional cost of meals. Each social services district must provide for the additional costs of meals for persons unable to prepare meals at home or who do not otherwise receive meals in their residences in accordance with the following schedule:

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SCHEDULE SA-5
RESTAURANT ALLOWANCE
SCHEDULE

Monthly allowances to be added to appropriate monthly grants and allowances for combinations of restaurant meals and meals prepared at home or meals otherwise provided in the residence, including sales tax.

Dinner in a restaurant	\$29.00
Lunch and dinner in a restaurant	\$47.00
All meals in a restaurant	\$64.00

Additional special restaurant allowance as described below.

Effective November 1, 1986, a special monthly restaurant allowance of an additional \$36 must be granted to any pregnant woman or person under 18 years of age, or any person under 19 years of age who is a full-time student regularly attending a secondary school or in the equivalent level of vocational or technical training if, before such person attains age 19, such person may reasonably be expected to complete the program of such secondary school or training.

HOME DELIVERED MEALS

Monthly allowances to be added to appropriate monthly grants and allowances.

Extra allowance	\$36.00
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(d) Replacement of clothing or furniture. Each social services district must provide for partial or total replacement of clothing or furniture which has been lost in a fire, flood or other like catastrophe, provided such needs cannot otherwise be met through assistance from relatives or friends or from other agencies or other resources. Such allowances must not exceed the amounts authorized under schedules SA-4a and SA-4b.

SCHEDULE SA-4b
REPLACEMENT COST OF CLOTHING

Birth through 5 years	\$48.00
6 through 11 years	\$73.00
12 through adult	\$89.00

(e) Reserved.

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(g) Payment for services and supplies already received. Assistance grants must be made to meet only current needs. Under the following specified circumstances payment for services or supplies already received is deemed a current need:

(1) Replacement of lost or stolen checks.

(i) If an applicant or recipient reports to a local social services official that a check has been lost or stolen, an affidavit of loss must be required of the recipient, and payment of the check must be stopped. If the recipient has not already done so, he must be required by the local social services official to report the loss or theft to the police, to obtain from them the blotter entry number, or classification number, or file number or other available evidence of the reporting, and to furnish such evidence to the local social services official. When satisfied that such police report has been made, the local social services official must issue a replacement check to the recipient, on which there must appear above the place for the recipient's signature, the following: "By endorsing or cashing this check I acknowledge that this is a replacement for a check, number dated drawn to my order on which was lost/stolen; that I have not received the proceeds of said check directly or indirectly; and that I have been informed it is illegal for me to cash said check, and if I do so, I am liable to prosecution."

(ii) If payment is not stopped on the original check and it and the replacement check are both cashed, only one must be subject to State reimbursement, and the social services district must limit its claim for State reimbursement to one of the two checks.

(iii) If it is established that a recipient endorsed and cashed an allegedly lost or stolen check which has been replaced, the amount of such check must be recovered from the recipient as provided for by the provisions of the regulations of this department.

(2) Replacement of electronic benefits. When a recipient claims that he or she has not received electronic cash public assistance benefits which the Department's computer issuance record indicates were issued, the social services district must verify the validity of the computer issuance record in accordance with procedures established by the Department. If it is verified that a valid issuance transaction occurred, the benefits cannot be replaced. If it is determined that a valid issuance transaction did not occur, the benefits must be restored in accordance with section 352.31(f) of this Part.

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(3) A grant may be made to pay for rent, property taxes or mortgage arrears for the time prior to the month in which the public assistance case was opened or for applicants for emergency assistance under Parts 370 and 372 of this Title only when:

(i) such payment is essential to forestall eviction or foreclosure and no other shelter accommodations are available; or

(ii) the health and safety of the applicant is severely threatened by failure to make such payment; and

(iii) the authorization for the payment receives special written approval by the social services official or such other administrative officer as he or she may designate, provided such person is higher in authority than the supervisor who regularly approves authorization.

(iv) the applicant reasonably demonstrates an ability to pay shelter expenses, including any amounts in excess of the appropriate local agency maximum monthly shelter allowance, in the future. However, when in the judgment of the local social services official, the individual or family has sufficient income or resources to secure and maintain alternate permanent housing, shelter arrears need not be paid to maintain a specific housing accommodation;

(v) such payment does not exceed the local agency maximum monthly shelter allowance. A district may, consistent with subparagraph (iv) of this paragraph, issue a grant for arrears in excess of the maximum monthly shelter allowance. However, any amount above the local agency maximum monthly shelter allowance paid towards the monthly arrears is an overpayment subject to recovery and recoupment in accordance with section 352.31 of this Part;

(vi) the applicant, if accepted for on-going public assistance, agrees to future restriction of shelter payments in accordance with Part 381 of this Title; and

(vii) in the case of an applicant who is not eligible for Safety Net Assistance, Family Assistance, Emergency Assistance to Families, or Emergency Assistance to Adults, such applicant is without income or resources immediately available to meet an emergency need, such applicant's gross household income at the time of application does not

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exceed 125 percent of the federal income official poverty line as defined and annually revised by the Federal Office of Management and Budget, and such applicant signs an agreement to repay the assistance in a period not to exceed 12 months from receipt of such assistance. The repayment agreement must set forth a schedule of payments that will assure repayment within the 12 month period, and must specify the frequency of the payments, the due date of the first payment, the address where payments must be made and the consequences of failing to repay the assistance as agreed. Subsequent assistance to pay arrears may not be granted unless there are not past-due amounts owed under any such repayment agreement. The social services district, in addition to any rights it has pursuant to the Social Services Law, may enforce the repayment agreement in any manner available to a creditor.

(4) A recipient of family assistance or safety net assistance who is threatened with eviction or foreclosure or who is being evicted or whose property is being foreclosed upon for non-payment of rent, mortgage or taxes incurred during a period for which a grant had been previously issued to the recipient may be provided with an advance allowance for rent, mortgage principal and interest payments or taxes in accordance with section 352.11 of this Part. Advance investigation of the need for restricted payments must be conducted in accordance with Part 381 of this Title. An allowance for rent, mortgage principal and interest payments or taxes which exceeds the appropriate local agency maximum monthly shelter allowance can be made only if all of the following conditions are met:

- (i) notwithstanding section 352.23(b) of this Part, the recipient agrees to use all available liquid resources for the payment of shelter expenses necessary to prevent eviction or foreclosure;
- (ii) the recipient demonstrates an ability to pay shelter expenses in the future, including any amounts in excess of the appropriate local agency maximum monthly shelter allowance;
- (iii) the recipient agrees to future restriction of rent or mortgage payments; and
- (iv) the recipient has not previously received an allowance pursuant to this paragraph and, subsequent to receiving such allowance, requested discontinuation of restriction of the shelter payments to which he or she agreed pursuant to this paragraph.

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(h) Chattel mortgages or conditional sales contracts. If the furniture or household equipment of an applicant, who has not been a recipient of public assistance within the previous six months preceding his application, is essential to making his living accommodations habitable but are presently encumbered by a chattel mortgage or a conditional sales contract, every effort must be made to defer, cancel or reduce payments on such chattel mortgage or conditional sales contract. If all such efforts fail, an allowance may be made for a compromise settlement of such payments or, if a compromise cannot be reached, for other essential payments; provided, however, that the compromise settlement or allowances must not exceed the cost of replacement.

(i) Camp fees. When funds cannot be obtained from other sources, camp fees may be paid for children receiving FA not in excess of total cost of \$400 per child per annum, in amounts not to exceed \$200 per week.

(j) Reserved.

(k) Additional needs because of pregnancy. A monthly allowance of \$50 must be added to the appropriate monthly grant and allowance of a needy pregnant woman beginning with the fourth month of pregnancy or the month in which medical verification of the pregnancy is presented to the district, whichever is later.

(l) Reserved.

(m) Supplemental payments. The social services official must provide a monthly allowance to supplement the income of an FA, SNA or VA household when the household experiences a net loss of cash income due to the acceptance of employment by a JOBS participant who is a member of the household, when such acceptance is required by the social services district. A net loss of cash income occurs when the monthly gross income of the household, subtracting necessary actual work-related expenses, is less than the cash assistance the household received in the month in which the offer of employment was made. The supplement must equal the monthly net loss of cash income that would occur if the supplement were not paid to the household.

(1) Gross income includes, but is not limited to, earnings, unearned income and cash assistance.

(2) Cash assistance means the budget deficit as defined in section 352.29 of this part.

(3) Necessary actual work-related expenses are the actual, verifiable and unreimbursed expenses directly related to maintaining employment.

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- (n) Burials. Allowances must be made for burial of applicants for and recipients of public assistance in accordance with section 141 of the Social Services Law.

(o) **Removals.** Allowances must be made to applicants for or recipients of public assistance who are removed to another state or country in accordance with section 310.1(h) of this Title. Such allowances can only be made for the reasonable and necessary expenses of such removals, as authorized by section 310.1(h)(2) of this Title.

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